

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JULY SESSION, 1997

FILED
February 20, 1998
Cecil W. Crowson
Appellate Court Clerk

Franko D. Fykes,)
)
Appellant,)
)
VS.)
)
STATE OF TENNESSEE,)
)
Appellee.)

C.C.A. NO. 01C01-9811CR-00490

DAVIDSON COUNTY
THOMAS H. SHRIVER, JUDGE

(Post Conviction)

FOR THE APPELLANT:

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OPINION FILED _____

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

OPINION

In this appeal of the summary dismissal of his post-conviction petition Appellant, Franko Donell Fykes, asks this Court to review the validity of his conviction entered upon his pleas of guilty on March 20, 1986. Appellant pled guilty to aggravated rape and burglary of an automobile. As part of the plea agreement Appellant received sentences totaling forty-four years.

Without acknowledging his post-conviction petition was time-barred under the three year statute of limitations in effect when his conviction became final, Appellant argues that the enactment on May 10, 1995, of the new one year statute of limitations for post-conviction petitions creates a new one year period in which he may file for post-conviction relief. Our State Supreme Court has only recently resolved this issue adversely to Appellant's position. Carter v. State, Monroe Co., No. 03-S-01-9612-CR-00117 (Tenn. S. Ct. September 8, 1997, at Knoxville). Thus the petition for post-conviction relief was properly dismissed.

Accordingly, the judgment of the trial court is affirmed in all respects pursuant to Rule 20, Rules of the Court of Criminal Appeals. Costs of the appeal will be taxed to the Appellant.

JERRY L. SMITH, JUDGE

CONCUR:

PAUL G. SUMMERS, JUDGE

DAVID G. HAYES, JUDGE